D.B. CIVIL SPECIAL APPEAL (W) NO.624/2004

Sri Karanpur Kraya Vikraya Sahakari Samiti Ltd.

Vs.

The Judge, Industrial Tribunal and Labour Court, Sri Ganganagar & Ors.

Date : 13.03.2007

PARESENT

HON'BLE MR. JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE BHANWAROO KHAN

Mr. S.K.M. Vyas for the appellant.

Mr. K.K. Bissa) for the respondents.
Mr. G.J. Gupta)

Heard learned counsel for the parties.

The petitioner-appellant has challenged the part of award passed by the Labour Court as a result of settlement arrived at in the course of proceedings before Lok Adalat by mediation which is part of record of the Labour Court. It shows that an application was moved jointly signed by the representatives of both management as well as the employee as well as by the employee and the General Manager of the samiti which stated that in terms of the agreement as suggested by

the Lok Adalat the employer is ready to take the workman back on duty and also agreed to pay 50% back wages. It is in terms of the agreement arrived at during Lok Adalat in the presence of the representatives of the parties to the dispute as well as their authorised representatives the award was made.

The learned Single Judge has dismissed the writ petition that since the award has been made by the Labour Court with the consent of the petitioner no interference is called for.

In this appeal against the order of the learned Single Judge, the only contention that has been raised was that the workman has already been reinstated but the award is challenged to the extent it orders the payment of back wages inter alia on the ground that Santok Singh Chief Manager had no authority to enter into a settlement in regard to back wages.

However, the authority of the General manager or the authorised representative is not denied

even now in toto. The award has been challenged only to the extent consent was given for grant of 50% back wages.

It appears from the perusal of the record of the Labour Court that on 31st May, 2000 the settlement document was filed duly singed by the claimants Narsing Naraya, Santok Singh, Chief Manager of the petitioner-Society and their respective representatives Bhuramal Swami and Gauri Shakkar Gupta which was duly attested by the Judge, Labour Court in the presence of the parties and the award was passed in terms of the said settlement on that very date.

After the award was made, an application was moved on behalf of the society under the signature of Santok Singh, Chief Manager admitting that the settlement has been arrived at in Lok Adalat but it has now come to the knowledge that claim was filed by concealing material facts. The principal ground stated for resiling from the settlement was that the claimant in his claim has stated that he is unemployed but the

employer has now come to know after the settlement was arrived at that he is already working somewhere. Suffice it to say that this ground stated in the application was an after thought on the face of record. Undoubtedly the claimant has said that he is unemployed. In reply to the claim filed as far back as on 7.9.1999 specific plea was taken by the management that the claimant is employed elsewhere. It was stated that claimant after retrenchment is engaged somewhere else and is getting good salary. Therefore, the statement in the application that the management has come to know later on that he is employed elsewhere and for want of this information settlement was wrongly arrived at was wholly a ruse to resile from the settlement arrived at in Lok Adalat on wrong facts. Reference to other grounds raised is that the settlement was not accepted by having resort to provision of Order 22 Rule 3 C.P.C. Suffice it to say the provisions of C.P.C. is not applicable to the proceedings before the Labour Court on their own force and the settlement was filed in the Court by the parties present in the Court in the presence of their representative without taking any objection thereto. It cannot be said

that the court has passed an award without application of mind.

In the present case, the Labour Court was not required to hold enquiry into these facts. Moreover, the application was moved by none other than Santok Singh whose authority is not disclaimed by the petitioner-appellant. No ground about the lack of authority vesting in Santok Singh was raised.

Once it is accepted that in terms of the compromise during the Lok Adalat in the presence of the representative of the employer the reinstatement agreed to by the representative is not under challenge and in this regard nothing has been placed on record, natural presumption is that when a juristic person is represented before the Lok Adalat through its authorised representative as well as the officer and takes part in the proceedings he had authority to act on behalf of principal else it does not stand to reason that the juristic person could in any other manner participate effectively in Lok Adalat proceedings. We are unable to sustain this

plea which on the face of it appears to be inapt that the authorized representative and General Manager of the Cooperative Society was only authorised to agree for reinstatement but was not authorized to give his agreement in respect of incidental matters as a result of reinstatement.

We, therefore, do not find any substance in the plea about the lack of authority on the part of Manager and the authorized representative appearing before the Labour Court, who has filed the duly signed settlement in terms of the soul and spirit of proceedings of the Lok Adalat and, thereafter the same person has filed application Annex.7 attached with the writ petition for recalling the award. In said application no such ground has been raised. The filing of application Annex.7 on behalf of the Society is owned by the appellant. Similarly this belies the plea of appellants about lack of authority on the part of Santok Singh to enter into settlement altogether.

The respondent-workman had died during

the pendency of appeal and his legal representatives have been brought on record.

The appeal, therefore, fails and is hereby dismissed. The ad interim order is vacated.

[BHANWAROO KHAN], J. [RAJESH BALIA], J.

babulal/